

## **REMARKS/ARGUMENTS**

### **1. INTRODUCTION**

Claims 58-75 are pending in this application, with claims 61, 64, and 71-75 being withdrawn from consideration. Applicants respectfully request further examination and reconsideration of the application in view of the following arguments.

### **2. REJECTION OF CLAIMS FOR OBVIOUSNESS TYPE DOUBLE PATENTING**

Claims 58-60, 62, 63, and 65-70 stand rejected under the judicially created doctrine of obviousness-type double patenting relative to claims 24-30 of U.S. Patent No. 6,752,381. Applicants submit with this Response as Attachment A a *Terminal Disclaimer Under 37 C.F.R. §1.321(c) to Obviate a Double Patenting Rejection* with respect to that patent. Applicants submit that the rejection as to claims 58-60, 62, 63, and 65-70 has been overcome and request that the rejection be withdrawn.

### **3. CLAIM REJECTIONS UNDER 35 U.S.C. § 103**

Claims 58-60, 62, 63, and 65-70 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Blatz (U.S. Pat. No. 5,328,154) in view of Extine (U.S. Pat. No. 4,108,421). Applicants respectfully submit that the rejection is improper because the Examiner has failed to establish a prima facie case of obviousness with respect to these claims.

“Patent examiners carry the responsibility of making sure that the standard of patentability enunciated by the Supreme Court and by the Congress is applied in each and every case.” MPEP § 2141 (emphasis in original).

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations.

Application No. 10/813,493  
Amendment dated 01/19/2006  
Reply to Office Action dated 11/10/2005

MPEP § 2143. Applicants submit that the Examiner has failed to establish a prima facie case of obviousness with respect to claims 58-60, 62, 63, and 65-70, because there is no suggestion or motivation in the art to combine the teachings of Blatz and Extine.

“It is improper to combine references where the references teach away from their combination.” MPEP § 2145 X.D.2 (citing *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983)). One of ordinary skill in the art at the time the invention was made would not have been motivated to combine the teachings of Blatz and Extine, because Extine teaches away from such a combination. Extine teaches a “tire engaging member” (34) which is “fixed” to the end of a ramp (26). (Col. 2, lines 13-14). Moreover, Extine teaches use of a single leveling unit (10) which does not cooperate with other “stands.” Extine explains that the leveling unit includes “a wood or plastic stand 12 having studs 14 or other ground-engaging means on its bottom . . . .” (Col. 1 line 68 – Col. 2., line 1). As applicants noted in the parent application, insofar as the leveling unit of Extine includes ground-engaging studs, it clearly teaches away from employing the device with additional ramps or units, since the ground-engaging studs would be inoperable.

In contrast, Applicants’ second body with its obstruction, is removable from the first planar body of the wheel support leveler assembly. Moreover, both the first planar body and second body of Applicants’ wheel support leveler include engaging pockets to matingly receive corresponding projections of other similar first planar bodies, rather than being limited by ground-engaging studs.

Because there is no suggestion or motivation in the prior art to combine the teachings of Blatz and Extine, Applicants respectfully submit that the rejection of claims 58-60, 62, 63, and 65-70 under 35 U.S.C. § 103(a) is improper. Accordingly, Applicants respectfully request that the rejection be withdrawn.

Application No. 10/813,493  
Amendment dated 01/19/2006  
Reply to Office Action dated 11/10/2005

**4. CONDITIONAL REQUEST FOR TELEPHONIC INTERVIEW**

Applicant respectfully requests the Examiner to contact Applicant's representative at (248) 203-0764 to discuss the merits of the remarks presented above in the event that the pending claims are not found allowable over the art of record.

**5. CONCLUSION**

A genuine effort to resolve all issues has been made. For at least the above cited reasons, all claims pending in this Application are now believed to be allowable. Applicants respectfully request that any questions or concerns be directed to Applicants' undersigned attorney.

Respectfully submitted,

  
Adam B. Strauss  
Reg. No. 43,167  
DYKEMA GOSSETT PLLC  
39577 Woodward Ave, Suite 300  
Bloomfield Hills, MI 48304  
(248) 203-0764  
[ipmail@dykema.com](mailto:ipmail@dykema.com)  
Customer No. 26127  
Attorney for Applicant(s)

Date: January 19, 2006

BH01\575320.2  
ID\ABST